

**DEPARTMENT OF STATE REVENUE**  
**LETTER OF FINDINGS NUMBER: 03-0440**  
**Adjusted Gross Income Tax**  
**For the Year 2000**

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**ISSUE**

**I. Adjusted Gross Income Tax-Disallowance of Exemptions**

**Authority:** IC 6-8.1-5-1(b), IC 6-3-1-35(a)(3),(4), IC 6-3-1-3.5(a)(5)(A), 26 USCA 151(c)(1)(B), 26 USCA 151(d)(2), 45 IAC 3.1-1-5(b)(4).

The taxpayer protests the disallowance of certain exemptions.

**STATEMENT OF FACTS**

In 2000, the taxpayer had a son who was 19 years old and a full time student. The taxpayer claimed his son as an exemption on his 2000 IT-40 on line 8 and as an additional exemption on line 9. The taxpayer did not claim his son as an exemption on his 2000 federal 1040; thus allowing the son to take advantage of the federal education credits on his own federal return. The Indiana Department of Revenue, hereinafter referred to as the "department," disallowed the exemptions. The taxpayer protested the disallowance and a telephone hearing was held. This Letter of Findings results.

**I. Adjusted Gross Income Tax-Disallowance of Exemptions**

**DISCUSSION**

All tax assessments are presumed to be accurate and taxpayers bear the burden of proving that any assessment is incorrect. IC 6-8.1-5-1(b).

The taxpayer argues that he was legitimately entitled to claim all exemptions on his state return even though he chose to claim only one exemption on the corresponding federal return. The taxpayer maintains that his decision, not to claim his dependent child on the federal return, did not preclude him from claiming that child on the state return.

Insofar as relevant to the taxpayer's "Line 8" deductions, IC 6-3-1-3.5(a)(3),(4) states that the Indiana taxpayer is to "Subtract one thousand dollars (\$1,000.), or in the case of a joint return

filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000). Subtract one thousand dollars (\$1,000) for each of the exemptions provided by Section 151 (c) of the Internal Revenue Code.” Insofar as relevant to the taxpayer’s “Line (9)” deductions, IC 6-3-1-3.5(a)(5)(A) permits an Indiana taxpayer to “subtract one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996.”

The statutory formula is straightforward; an Indiana taxpayer may claim a \$1,000 exemption on line 8 of his Indiana return if that exemption is allowed under Section 151(c) The Indiana taxpayer may claim a \$1,500 deduction on line 9 of his Indiana return if that exemption is allowed under Section 151(c)(1)(B). There is nothing apparent in the statute which requires-as a condition precedent to claiming those Indiana exemptions-that the taxpayer first claim the identical exemptions on his federal return.

The explanatory language on the 1999 IT-40 return is equally straightforward: line eight on the form states that the taxpayer is to report the “[n]umber of exemptions claimed on your federal return.” The IT-40 also states that the taxpayer is entitled to claim an [a]dditional exemption for certain dependent children” and to report that number on line nine.

Relevant to line eight, the Department’s accompanying instructional booklet states that, “You are allowed a \$1,000 exemption on your Indiana tax return for each *exemption you claim on your federal return.*” (Emphasis added.) Relevant to line nine, the booklet states that, “An additional exemption, which has been increased to \$1,500, is allowed for certain dependent children.” On their face, the IT-40 directions would seem to preclude taxpayer from claiming the dependent child on his state return when he declined to report the otherwise qualifying dependent child on the federal return. The mandatory nature of the instructional language is reinforced by 45 IAC 3.1-1-5(b)(4) which directs the taxpayer to “[s]ubtract \$1000 for each exemption taken on the Federal return for taxpayer or spouse aged 65 or above. . .” and to subtract “\$500 [now \$1,500] *for each exemption taken on the Federal return* for a qualified dependent.” (Emphasis added.)

The instructions printed on the Indiana tax form, the accompanying instructional booklet, and the Department’s regulation preclude an Indiana taxpayer from claiming an exemption unless the exemption has also been claimed on the corresponding federal return.

Additionally, the taxpayer argued that the Indiana law concerning the dependent exemptions requires only that the taxpayer be allowed to take the child as a dependent on a federal return. The law does not require that the child actually be taken as an exemption on the federal return. However, each federal exemption can only be used by one taxpayer. 26 USCA 151(d)(2) states as follows:

In the case of an individual with respect to whom a deduction under this section is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual’s taxable year begins, the exemption amount applicable to such individual shall be zero.

In this case, the child used his federal deduction for personal exemption on his own federal return. Therefore, the taxpayer was not allowed to take it on his return even though the son met the other requirements for consideration as a dependent. Consequently, the taxpayer was not entitled to take the child as a dependent on his state return either.

**FINDING**

The taxpayer's protest is denied.

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